

A nonprofit organization which provides and maintains a two-way radio system for its members on a mutual or cooperative basis qualifies for exemption from Federal income tax under section 501(c)(12) of the Internal Revenue Code of 1954, provided 85% or more of its income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

Advice has been requested whether a nonprofit organization which provides and maintains a two-way radio system for its members qualifies for exemption from Federal income tax under section 501(c)(12) of the Internal Revenue Code of 1954.

The instant organization was formed for the exclusive purpose of providing and maintaining a two-way radio system for its members. All members are required to lease or purchase their own radio equipment, and all mobile units must comply with the minimum specifications of the Federal Communications Commission. Each unit is equipped with a selective calling system which operates in conjunction with a centrally located base station. The association is operated for the mutual benefit of its members and without profit. Contributions to capital and operating expenses are accepted only on a costsharing basis and all costs are prorated on an equitable basis among members receiving services. Any profits after authorized charges, expenses, and costs are refunded to members on a unit basis at the close of the fiscal year.

Section 501(c)(12) of the Internal Revenue Code of 1954, which corresponds to section 101(10) of the Internal Revenue Code of 1939, describes certain organizations exempt from Federal income tax under section 501(a) and provides in part as follows:

(12) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

In order for an organization to qualify for exemption from Federal income tax under section 501(c)(12) of the Code, it must be a mutual or cooperative organization and 85 percent or more of its income must consist of amounts collected from members for the sole purpose of meeting losses and expenses. The instant organization meets these requirements.

In *Sunset Scavenger Company v. Commissioner*, 84 Fed. (2d) 453, Ct. D. 1190, C.B. 1937-1, 202, it was held that a corporation furnishing scavenger service did not qualify for exemption from income tax under section 101(12) of the 1939 Code (now section 521 of the 1954 Code), which exempts Farmers, fruit growers or like associations organized and operated on a cooperative basis to

market agricultural products of its members or to purchase supplies and equipment for its members. The court stated that under the principle of ejusdem generis, the words 'like associations' are limited by the words 'farmers' and 'fruit growers' engaged in marketing agricultural products or purchasing supplies and equipment for those so engaged.

Although this decision was based on a different section of the Code wherein the groups referred to were similar, whereas the three groups referred to in the section under discussion are dissimilar except in their method of operation, the rationale of the Sunset Scavenger Company case may be helpful in determining whether a particular organization comes within section 501(c)(12).

For example, the two-way radio association here is similar to a mutual or cooperative telephone company in that a two-way radio communication system on a mutual basis is an organization whose purpose is similar in nature to a mutual telephone company.

Accordingly, it is held that a nonprofit organization which provides and maintains a two-way radio system for its members on a mutual or cooperative basis qualifies for exemption from Federal income tax under section 501(c)(12) of the Internal Revenue Code of 1954 as a 'like organization,' provided 85 percent or more of its income consists of amounts collected from members for the sole purpose of meeting losses and expenses.